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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,498	01/03/2002	Darrell O. Wagner	279.403US1	5505
21186	7590	12/07/2004	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			JASTRZAB, JEFFREY R	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/038,498

Applicant(s)

WAGNER, DARRELL O.

Examiner

Jeffrey R. Jastrzab

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-11, 13-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-11 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3762

DETAILED ACTION***Response to Arguments***

Applicant's arguments with respect to claims 1, 2, 6, 10-12, 15, 16 and 20 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-11, 13-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by van Krieken et al., US-5782887. Note the Brief Summary, which states in part:

"A particularly bothersome situation is the occurrence of a premature atrial contraction, or PAC. As used herein, a PAC is defined as a first atrial beat that arrives after an atrial interval shorter than to tachycardia interval. Thus, if tachycardia is defined as a rhythm with a rate greater than 130 bpm, an atrial beat at an interval less than that which corresponds to 130 bpm is a PAC if no other such tachy beat has preceded it. If true tachycardia is present, steps designed to deal specifically with breaking it up are called for. But, if there is a PAC that stands alone, it is important to deal with it in the most effective way. If a dual chamber pacemaker does not properly react to a PAC, there is a danger of pacemaker mediated tachycardia (PMT). For this reason, but even without that problem, it is desirable not to just ignore the PAC, but to pace the ventricle in a tracking relation if possible. But if the PAC has occurred close enough to the last ventricular event, a ventricular pace that is delivered at the time out of an AV delay after the PAC could fall in the cardiac vulnerable period, which can lead to fibrillation. To avoid this dangerous possibility, many pacemakers incorporate a post ventricular atrial refractory period, or PVARP, which is

Art Unit: 3762


long enough to prevent the pacemaker from sensing and responding to any atrial sense that occurs close to the ventricular vulnerable period. The problem with this solution is that the pacemaker is prevented from tracking certain high rate atrial signals, PAC or otherwise, which could be safely tracked. "

It would appear that the terms late-pace and early-pace would be covered by van Krieken based on when the PAC occurs. The PVARP extension provides the safety delay per Claim 5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Jastrzab whose telephone number is (571) 272*4947. The examiner can normally be reached on Monday - Wednesday 5:30a.m. to 4:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JEFFREY R. JASTRZAB
PRIMARY EXAMINER
3762
12/13/07